

Real Property Management

ACQUISITION AND RETENTION OF REAL PROPERTY

This regulation assigns responsibility and prescribes procedures to be followed on matters pertaining to real property acquired or to be acquired by the Federal Government for use by the Air National Guard.

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1. Explanation of Terms:

a. Easement. The right to use land of another for a specified purpose. Normally, the owner of the land continues in possession and may make such use of his or her land as will not interfere with the purpose for which the easement was granted. An easement may be granted for a specified term or in perpetuity. An easement differs from a license in that the privilege granted normally is not revocable during its term.

b. Fee Simple Title. Such title to real property as belongs to a person or the Government where full and unconditional ownership exists.

c. Lease. A conveyance of an exclusive possessory interest in real property for a specified term, reserving to the owner rent or other consideration.

d. License. A privilege, revocable at will, to use or pass over privately owned real property for a specified purpose.

e. Permit. A nonpossessory right or exclusive or nonexclusive use of real property. It is generally applicable to the use of property of one Government agency by another for a specified period.

f. Clearance Easement. The right to remove or prevent obstructions projecting into the airspace. Examples are easements over areas beyond the ends of an

airfield runway (approach zone) and adjacent to the sides of the runway (transition zone), clearances for approach lighting sites, communication sites, etc. A clearance easement does not involve the right of aircraft passage over and above the land.

g. Restrictive Safety Easement. The right to restrict the erection of habitable buildings, the congregating of 25 or more people, or other activities within a certain safety distance of ammunition areas or armed aircraft.

h. Right-of-Way Easement. The right to pass over the land of another for a specific purpose. Such use could be for the construction of a road or the installation of pipe or pole lines or telephone cables, etc.

i. Condemnation. A judicial proceeding instituted by the Government for the purpose of exercising its right of eminent domain.

j. Project. A real property acquisition action, or related actions, at a single ANG installation to fulfill a specific requirement. Related real property actions, constituting a project, will be processed simultaneously. (For example: The acquisition of an ammunition storage area normally involves the acquisition of an area in fee for the construction of the storage facilities and restrictive easements over an adjacent safety area; a runway extension generally involves the acquisition of adjacent clearance easements with the fee.)

k. Nominal Rental. A rental consideration in money or services of a token amount. Generally, it involves a rental payment of \$1 per annum. Nominal rental also denotes a consideration wholly unrelated to the actual or fair market value of the leased premises.

Supersedes ANGR 87-1, 7 May 1968. (For summary of revised, deleted, or added material, see signature page.)

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l. Real Property. Includes any right, title, or interest in land and buildings, fixed improvements, utilities, and other permanent-type additions to land.

m. Real Estate Directive. A request to the appropriate real estate agency to act on a real estate matter on behalf of the Air Force.

n. Real Estate Planning Report (REPR). A complete and detailed description of real property to be acquired, including the type of interest, the acreage, and estimated cost. An REPR contains information covering ownership data, legal description of real property, comparative sales with analyses, methods of development of estimated cost, and other pertinent data. When used in connection with a leasehold acquisition, this report is referred to as a Lease Planning Report (LEPR). A "Brief Real Estate Planning Report" (BREPR) is an abbreviated REPR giving a description of the property to be acquired, including the acreage, type of interest to be acquired, nature of the surrounding land, estimated cost by parcel and map or drawing of the real property concerned. A detailed appraisal is not normally required for the preparation of the BREPR.

o. Right of Entry. The temporary right to enter upon real property for a specified purpose without acquiring any estate or interest herein.

## 2. Policies Concerning Real Property:

a. Amount to be Acquired. Only the minimum amount of real property needed to meet a current Air National Guard requirement will be acquired. The proposed acquisition must satisfy the Air National Guard requirement in the most economical manner and create the least impact on the civilian economy. Prior to acquisition, the National Guard Bureau will determine that requirements cannot be satisfied by use of other real property currently available to the Air National Guard.

b. Method of Acquisition. Acquisition of real property may be by fee simple title, lease, license, permit, or easement (perpetual or for a specified period), which clearly establishes an Air National Guard real estate interest in all federally owned or leased property to be utilized by the Air National Guard. Real property also may be acquired by transfer of real property that is excess to the requirements of the other military departments or other government agencies.

c. Lesser Interests. The acquisition of an interest in real property, including improvements, by easement (perpetual or for a specified period), license, permit, or lease, will be considered in the best interest of the Government if the estimated period of required use is so limited that fee acquisition could not be justified for economic reasons.

d. Criteria and Scope of Acquisitions. Acquisitions of real property will conform to the criteria and scope in AFM 86-2, chapter 25, for the facility concerned. The Base Facilities Board, established according to ANGR 86-7, will be used to the maximum extent in determining requirement for real property. Base master plan will then be annotated to include additional real estate requirements.

e. Scheduled Renewal of Leases. Leases which provide by their terms of 50 or 25 years' use as required by e(1) or e(2) below will be considered as complying with those requirements even though several years have elapsed since the lease was executed. Military construction as authorized may continue to be placed on the leased land as long as the remaining term of the lease is equal to the life expectancy of the facilities proposed for construction. State authorities will take timely action to request renewals of such leases, if the continued use of the property is programmed or contemplated beyond the expiration date of the lease. They will use the following time schedule as a guide in request for lease renewal:

(1) Fifty-Year Term—commence renewal action 10 years in advance of expiration.

(2) Twenty-five-Year Term—commence renewal action 5 years in advance of expiration.

f. Advance Requests for Renewals. The above time schedule is not intended to preclude earlier requests for renewal of leases if considered appropriate. For example, if a 50-year lease for an airfield has a remaining term of only 15 years and a large Air National Guard construction program is contemplated, then action to obtain a new 50-year lease would be appropriate at the time. In other instances, the National Guard Bureau may be in a position to request a new 50-year lease in consideration of concessions granted to or to be granted to the authority exercising jurisdiction over the airfield.

g. Licenses. All real property occupied by the Air National Guard will be documented by a license, whether such property is Government owned or leased; or whether the Air National Guard has exclusive jurisdiction and control of the property or is a tenant on an Air Force installation. Such documentation clearly establishes an Air National Guard real estate interest in all Air Force property it uses.

h. Permanent Construction. Permanent construction will not be placed on real property in which the Federal Government's interest is less than fee simple title or perpetual easement except real property that is:

(1) Subject to provisions in the conveyance of property formerly owned or leased by the Federal Government under which there is reserved to the

Government the right to use the real property during a national emergency. A suitable lease, covering such real property, should be executed for a period of not less than 25 years.

(2) Required for the installation of utility lines, roads, and necessary appurtenances, provided a long-term lease or easement is acquired for nominal consideration.

(3) Required for airbases, provided such real property is acquired by lease containing provisions for:

(a) A firm term or right of renewal for at least 50 years.

(b) A consideration of \$1 per annum.

(c) The reservation to the Federal Government of title to all improvements to be placed on the real property and the right to dispose of such improvements by sale, abandonment, or other procedures determined to be in the best interest of the Government.

(d) A waiver of the lessor of any and all claims for the restoration of the leased premises.

(e) The use of the leased property "For Government Purposes" rather than for a specific purpose.

(4) Required for installations such as aircraft control and warning stations or radar bomb scoring sites, provided such real property is acquired by lease containing provisions listed in (1)(b) through (e) above and, in addition, a right of possession by the Federal Government under a firm term or right of renewal for a minimum term of 25 years.

i. Exceptions to Provisions on Permanent Construction. Exceptions to the requirement of 2h above will require approval of the Assistant Secretary of Defense (Installation & Logistics). Request for such exceptions will be submitted to the National Guard Bureau. They will be accompanied by the following information, where applicable: a summary of the lease or easement terms to which the owner will agree; a proximity map depicting sites surveyed, with details on each as to availability for purchase, estimated value, and disqualifying factors; the estimated fee value of the real property to be acquired by lease or easement; period of time that the use of the real property will be required; the estimated cost of existing or proposed construction by the Federal Government and the estimated cost of ultimate restoration.

j. Construction. Permanent construction, modification, or improvements to buildings or facilities will not be made on property of another government agency, or

any other location where a real property legal interest has not been established with the Air National Guard. Where the Air National Guard is a tenant on a civilian airport, participation in airfield improvements of Joint-Use Facilities may be accomplished when beneficial to the Air National Guard and authorized by NGB.

k. Easements. Procedures for the acquisition of perpetual easements are identical to those for fee acquisition. Criteria for the acquisition of clearance easements for the runway complex are established by AFM 86-8. Normally, clearance easements will not be acquired when:

(1) Projects that require the acquisition of clearance easements over densely built up areas containing improvements, which do not constitute hazards to flight or where funds would not be expended to remove the improvements.

(2) Conditions indicate that improvements would not be constructed nor natural obstructions grow into the approach of transitional zone.

(3) Adequate zoning ordinances exist.

(4) Adequate funds are not available for removal or relocation of roads, railroads, or other obstacles, or a waiver has been granted.

### 3. Selection Criteria:

a. General. Real property for Air National Guard purposes will be selected by The Adjutant General, subject to concurrence of the National Guard Bureau. When new construction is involved, selection of a site will, if deemed appropriate or necessary, be made in coordination with the Corps of Engineers. Approval of the site by the National Guard Bureau will be based on surveys of possible locations, negotiations with responsible civic authorities and overall requirements of the Air National Guard. The following factors will be considered:

(1) Length of time property will be required, and the type of construction placed or to be placed on the property.

(2) Cost of development, rehabilitation, operation and maintenance.

(3) Accessibility of public transportation and communication systems, utility service and public roads.

(4) Current utilization and availability of the site.

(5) Proximity to a populated area containing an adequate manpower pool.

(6) Suitability of property for mobilization purposes.

b. Flying Fields. The following additional factors will be considered in the selection of flying field sites to be used by the Air National Guard:

(1) Suitability of the airfield as to standards and criteria established by the Federal Aviation Agency and the United States Air Force for use by military aircraft, and for requirements of assigned missions of the Air National Guard unit to be located there.

(2) Future expansion capability.

(3) Attitudes of communities, airport operators, and other interested parties.

(a) Attitudes of local Government toward enactment of appropriate zoning ordinances.

(b) Agreeability of lessor to provide the lessee unrestricted flying rights. Payment of Air National Guard or USAF proportionate share of maintenance will be covered by separate instruments.

(4) Avoidance of displacement of families, churches, or cemeteries, closing of highways and right-of-ways and any other costly relocation which may be necessary in constructing new facilities, including extension of existing runways and taxiways or other airfield facilities.

**4. Services of the Corps of Engineers.** The services of the Corps of Engineers will be used unless HQ USAF specifically designates another real estate agent for the acquisition of all real property for Air National Guard use upon determination that such requirement exists. Upon receipt of notification from the National Guard Bureau, HQ USAF will direct the Corps of Engineers to initiate appropriate real estate action to acquire the necessary interests in the real property desired. Corps will prepare, and make negotiations required, record, and distribute legal instruments and serve as the office of record. State Adjutants General will not negotiate directly with non-Government property owners unless expressly authorized by the National Guard Bureau.

**5. The Adjutant General Responsibilities.** Acquisition or retention of real property for the Air National Guard under this regulation is dependent upon the cooperation of appropriate state authorities in assuming responsibility for the following functions:

a. Determination of requirements for real property and initiation of requests for acquisition action.

b. Periodic determination of the continued need for real property currently used for Air National Guard purposes.

(1) Licenses: Assure that units initiate request for renewal through the Adjutant General (TAG) at least 9 months prior to expiration date of license.

(2) Leases: See paragraph 2e above.

(3) Request to National Guard Bureau for extension of real property instruments will be by letter. Attach environmental assessment (see paragraph 6c below). List any changes or additions that have taken place during the current term. List facilities and acreage to be included in the new instrument. Include five copies of real estate map showing real property to be licensed. If license implements a lease, give the lease number.

c. Compliance with all obligations and responsibilities imposed by the terms of the lease or other pertinent agreement.

#### **6. Procedures for Acquisitions:**

a. Requests. Requests for acquisition of real property, including the right to use federally-owned or leased property will be submitted over the signature of the command line of The Adjutant General to the National Guard Bureau.

b. Supporting Information. Each request will contain the following information:

(1) The identity and location of the real property to be acquired showing gross and net usable area required, whether real property is building space, and an adequate description of the real property. If land is the primary requirement, include number of acres, and color code all five copies of a real estate map showing the real property required and a vicinity map showing its location in relation to the nearest Air Force installation or principal city.

(2) Complete information on the proposed use of the real property and justification for same, based on appropriate criteria.

(3) A description of the real property (if any) presently used to meet the requirement.

(4) The date possession will be required and the estimated period of occupancy. Attach letter from State or Municipal owner of property indicating agreement or disagreement to proposed action, however, where private owners are involved, negotiate only with prior approval of NGB.

(5) The services, utilities, etc., to be provided; the estimated cost of additional (other) services which will be required; and other costs in connection with the acquisition.

(6) A statement that requirements have been reduced to minimum, and acquisition is essential to accomplish assigned mission.

(7) A statement that no Air Force or other Federal Government facilities are available to, or meet

the requirements of, the Air National Guard. A list of properties surveyed will be furnished along with reasons for declaring these properties unsuitable. If suitable Air Force or other Federal Government facilities have been declared excess and are available, the National Guard Bureau should be requested to take necessary action to suspend the disposal of same.

(8) An evaluation of the condition of all buildings, roads, grounds, and inside and outside utilities, etc., for adequacy to fulfill the intended purpose; and the immediate and future maintenance requirements.

(9) A general description of work to be performed, justification therefor, and cost estimate, if rehabilitation, modification, alteration, or other improvements are required.

(10) A statement indicating whether the facilities required are in lieu of new construction previously requested or disapproved.

(11) Additional information on, and justification for, required storage and warehousing facilities:

(a) Complete information about materials to be stored (types and quantities and a statement that stocks of such materials are within approved Air National Guard stock retention levels.

(b) A statement that the proposed facilities will not be used for the storage of items for which another military department has storage and distribution responsibility.

(c) Reasons the materials must be stored in the immediate vicinity.

(d) Complete information about the current square footage of storage space (open or closed) existing on the installation, and a statement that all storage space is being used to the maximum and that the capacity cannot be increased by improving the methods of storage.

(e) A statement that no closed space is being occupied by materials approved for open storage.

BY ORDER OF THE SECRETARY OF THE AIR FORCE

OFFICIAL

DOUGLAS J. MCGILL, Colonel, USAF  
Executive, National Guard Bureau

#### SUMMARY OF REVISED, DELETED, OR ADDED MATERIAL

This revision adds definitions of more types of real property interest that could be acquired, it furnishes additional instructions on preparation of acquisition request, and the need for environmental assessments.

(f) A statement that the facility meets all safety criteria, or copies of exceptions to criteria approved by the proper authorities.

(12) If practicable, photographs showing interior and exterior of buildings proposed for lease.

(13) Statement as to physical nature, extent, capacity and condition of outside utility services, including power, heating, gas, water supply and sewage, relating same to capacity to sustain anticipated use loads and potential maintenance.

(14) Complete survey of proposed properties from a fire prevention and fire protection standpoint to ensure adherence to minimum basic standards with regard to elimination of hazards to life and property with requiring excessive alterations, modifications or installation of essential fire protection systems.

c. Environmental assessments. All requests for real estate actions must be accompanied by environmental assessment prepared in accordance with AFR 19-2.

#### 7. Processing Acquisition Requests:

a. Five copies of the requests for real estate acquisition will be submitted to the National Guard Bureau. Upon receipt and approval by the National Guard Bureau, four copies will be forwarded to the Department of the Air Force requesting that the Corps of Engineers be authorized to enter into negotiations with the lessor or owner to obtain the required real estate interest. The Corps of Engineers will coordinate all real estate acquisition actions with The Adjutant General of the state concerned.

b. Five copies of requests for renewal will be submitted to the National Guard Bureau, and will be processed as shown in *a* above.

8. Security Classification. Classification of correspondence involving acquisition of real property will be in accordance with Air National Guard regulations in the 205 series.

LA VERN E. WEBER, Major General, USA  
Chief, National Guard Bureau